



ENVIRONMENTAL PROTECTION AGENCY

[FRL 10021-74-Region 3]

Clean Water Act: No-Discharge Zones for Vessel Sewage in Maryland and Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice–final determination.

SUMMARY: On behalf of the State of Maryland, the Secretary of the Maryland Department of Natural Resources requested that the Regional Administrator, U.S. Environmental Protection Agency, Region 3 approve a no-discharge zone for thirteen water bodies in Anne Arundel County, Maryland pursuant to the Clean Water Act. After review of Maryland’s application, EPA determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonable available for all thirteen waterbodies within Anne Arundel County. The application is available upon request from EPA (at the email address below).

DATES: This approval is effective upon the date of publication in the Federal Register on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ferry Akbar Buchanan, U. S. Environmental Protection Agency – Region III. Telephone: (215) 814-2570; email address: AkbarBuchanan.Ferry@epa.gov.

SUPPLEMENTARY INFORMATION:

Pursuant to Clean Water Act section 312(f)(3), if any state determines that the protection and enhancement of the quality of some or all of the state’s waters require greater environmental protection, the state may designate the waters as a vessel sewage no-discharge zone. However, the state may not establish the no-discharge zone until EPA has determined that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the proposed waters. EPA’s implementing regulations, 40 CFR part 140,

require that the state apply to EPA to obtain such a determination, and identify the types of information that must be included in the application. This includes a certification of need for the no-discharge zone and information regarding the vessel population and pumpout facilities.

The proposed no-discharge zone includes thirteen water bodies wholly within Anne Arundel County, Maryland: Stoney Creek, Rock Creek, Bodkin Creek, the Atlantic Marina Resort, Magothy and Little Magothy Rivers, Severn River, South River, West and Rhode Rivers, Podickory Creek, Sandy Point/Mezick Ponds, Whitehall Bay, Oyster Cove and Fishing Creek. While these waterbodies constitute nearly all of the county's waters, a few water bodies have not been proposed for the no-discharge zone designation. These include two inter-jurisdictional rivers that border the county, the Patapsco River and Patuxent River, as well as Curtis Creek. The proposed no-discharge zone encompasses a total area of 27,379 acres, expanding upon an existing 3,500 acre no-discharge zone for Herring Bay that was approved in 2002 (67 FR 1352, January 10, 2002). The table below provides the coordinates delineating the proposed no-discharge zone boundaries for each of the thirteen waterbodies.

| Waterbody | Waterbody Limits | | | Area (acres) |
|-----------------------------------|-------------------------|----|----------------------|---------------------|
| Stony Creek | 39.1723°N, 76.5171°W | to | 39.1725°N, 76.5126°W | 677 |
| Rock Creek | 39.1614°N, 76.5004°W | to | 39.1625°N, 76.4862°W | 524 |
| South Shore, Patapsco River | 39.1472°N, 76.4589°W | to | 39.1471°N, 76.4588°W | 2 |
| Bodkin Creek | 39.1346°N, 76.4398°W | to | 39.1321°N, 76.4378°W | 609 |
| Magothy and Little Magothy Rivers | 39.0597°N, 76.4332°W | to | 39.0527°N, 76.4382°W | 5,879 |
| Podickory Creek | 39.0328°N, 76.4040°W | to | 39.0317°N, 76.4048°W | 9 |
| Sandy Point/Mezick Ponds | 39.0082°N, 76.4031°W | to | 39.0081°N, 76.4033°W | 47 |
| Whitehall Bay | 38.9748°N, 76.4547°W | to | 38.9871°N, 76.4268°W | 1,599 |
| Severn River | 38.9748°N, 76.4547°W | to | 38.9411°N, 76.4502°W | 7,497 |
| Oyster Creek | 38.9274°N, 76.4638°W | to | 38.9273°N, 76.4634°W | 34 |
| Fishing Creek | 38.9147°N, 76.4590°W | to | 38.9073°N, 76.4600°W | 228 |
| South River | 38.9073°N, 76.4600°W | to | 38.8877°N, 76.4898°W | 5,904 |
| West and Rhode Rivers | 38.8877°N, 76.4898°W | To | 38.8531°N, 76.4959°W | 4,370 |
| | | | Total Area | 27,379 |

In the application, Maryland certified that the waters of the City of Annapolis and Anne Arundel County require greater environmental protection than provided by currently applicable Federal standards for vessel sewage discharges. The Magothy River, Whitehall Bay/Meredith River, Severn River, South River, Rhode River and West River have been listed on current or

previous Clean Water Act 303(d) lists of impaired waters by Maryland as impaired for shellfish harvesting due to fecal coliform. As such, many shellfish beds are restricted or closed. All except Whitehall Bay/Meredith Creek are also impaired for nutrients (nitrogen and phosphorus) and all except the Whitehall Bay/Meredith Creek and West River for total suspended solids. The state anticipates that a no-discharge zone designation would help reduce levels of nutrients, total suspended solids, and fecal coliform within these impaired waters.


The application also highlights the importance of boating in Anne Arundel County. The county is home to the U.S. Naval Academy, has hosted the U.S. Sailboat and Powerboat Shows annually since 1970, and is known as the “The Nation’s Sailing Capital.” According to the application’s sources, there are approximately 96 recreational boating businesses in Anne Arundel County, plus additional businesses that support and depend on recreational crabbing and fishing.

The State of Maryland provided documentation indicating that the maximum total vessel population is estimated to be 29,789 vessels, the majority of which are recreational. The most conservative vessel population estimates provided by Maryland suggest that there are 7,182 vessels less than 16 feet in length, 10,307 vessels between 16 feet and 26 feet in length, 9,072 vessels between 26 feet and 40 feet in length, and 3,228 vessels greater than 40 feet in length. Commercial traffic on these waterways is limited to boat rental companies, public charter vessels and several small cruise ships. Based on the number and size of vessels and EPA guidance on the subject (“Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials, Volume 1. Establishing No-Discharge Areas under section 312 of the Clean Water Act” (EPA 842-B-94-004, August 1994)), the estimated number of vessels requiring pumpout facilities in the City of Annapolis and Anne Arundel County during peak occupancy is 2,924 vessels.

Based on Maryland’s vessel population estimates and EPA guidance, approximately 46 pumpout facilities are needed to adequately service the vessel population. Maryland identified 61

marinas offering public pumpout service, including 59 stationary units, nine portable units and three mobile pumpout boats. The application provides additional information regarding height and draft limitations for accessing pumpout facilities. EPA has determined that vessels using the proposed waters will not be excluded due to any such limitations. A list of the facilities, phone numbers, locations and hours of operation follows.

| Station | Location | Phone | Hours | Depth | Off Season Operation | Limited Overhead | Address |
|----------------------------|-----------------------------|--------------|--------------------------|-------|----------------------|------------------|--|
| AREA : PATAPSCO RIVER (11) | | | | | | | |
| Atlantic Marina Resort | Patapsco River (mouth) | 410-437-6926 | 9-5 Daily | 4' | No | NA | 2010 Knollview Ave, Pasadena, MD 21122 |
| Blake's Bar Harbor | Patapsco River Rock Creek | 410-255-5500 | 8-6 Daily | 4' | No | NA | 208 Bar Harbor Rd, Pasadena, MD 21122 |
| Fairview Marina | Patapsco River Rock Creek | 410-437-3400 | Mon-Fri 8-4; Sat-Sun 8-3 | 5' | No | NA | 1575 Fairview Beach Rd, Pasadena, MD 21122 |
| Hammock Island Marina | Patapsco River Bodkin Creek | 410-437-1870 | 10-4 daily | 7' | No | NA | 8083 Ventnor Rd, Pasadena, MD 21122 |
| Maryland Yacht Club | Patapsco River Rock Creek | 410-255-4444 | 8-4 daily | 17' | Yes | NA | 1500 Fairview Beach Rd, Pasadena, MD 21122 |
| Nabbs Creek Marina | Patapsco River Stoney Creek | 410-437-0402 | 8:30-5 daily | 6' | No | Yes | 864 Nabbs Creek Rd, Glen Burnie, MD 21060 |
| Oak Harbor | Patapsco | 410-255- | 24-7 | 15' | No | NA | 1343 Old |


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| Marina | River Rock Creek | 4070 | | | | | Water Oak Point Rd, Pasadena, MD 21122 |
| Pasadena Yacht Yard | Patapsco River Rock Creek | 410-255-1771 | 9-5 daily | 4' | No | NA | 8631 Fort Smallwood Road Pasadena, MD 21122 |
| Pleasure Cove Marina | Patapsco River Bodkin Creek | 410-437-6600 | Mon-Thur 9-6; Fri-Sun 9-8 | 8' | Yes | NA | 1701 Poplar Ridge Rd, Pasadena, MD 21122 |
| Ventnor Marina | Patapsco River Bodkin Creek | 410-255-4100 | 9-5 daily | 10' | Yes | NA | 8070 Ventnor Rd, Pasadena, MD 21122 |
| White Rocks Marina & Boatyard | Patapsco River Rock Creek | 410-255-3800 | Mon-Fri 9-3; Sat 11-2 | 14' | No | NA | 1402 Colony Rd, Pasadena, MD 21122 |
|  AREA : MAGOTHY RIVER (7) | | | | | | | |
| Atlantic Marina on the Magothy | Magothy River/Grays Creek | 410-360-2500 | 9-5 daily | 6' | No | NA | 487 New York Ave, Pasadena, MD 21122 |
| Fairwinds Marina | Magothy Marina | 410-974-0758 | 8-5 daily | 6' | No | NA | 1000 Fairwinds Dr, Annapolis, MD 21409 |
| Ferry Point Marina | Magothy River/Mill Creek | 410-544-6368 | 7am-8pm daily | 14' | Yes | NA | 1606 Marina Dr, Trappe, MD 21673 |

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| Hamilton Harbour Marina | Magothy River | 410-647-0733 | Thurs-Tues 9-5 | 12' | No | NA | 368 North Dr, Severna Park, MD 21146 |
| Magothy Marina | Magothy River | 410-647-2356 | Mon-Thur 8-6, Fri-sun 8-8 | 16' | No | NA | 360 Magothy Rd, Severna Park, MD 21146 |
| Podickory Point Yacht Club | Chesapeake Bay | 410-757-8000 | 9-5 daily | 5' | No | NA | 2116 Bay Front Terrace, Annapolis, MD 21409 |
| Sandy Point State Park | Chesapeake Bay | 410-974-2149 | 24-7 | 6' | No | NA | 1100 E College Pkwy, Annapolis, MD 21409 |

AREA :
SEVERN
RIVER (17)

| | | | | | | | |
|---------------------------------------|-------------------------|--------------|------------|-----|--------------|----|--|
| Annapolis City Marina | Severn River Spa Creek | 410-268-0660 | 8-8 daily | 14' | Upon Request | NA | 410 Severn Ave, Annapolis, MD 21403 |
| Annapolis Landing Marina | Severn River Back Creek | 410-263-0090 | 10-5 daily | 6' | No | NA | 980 Awald Rd, Annapolis, MD 21403 |
| Annapolis Maryland Capital Yacht Club | Severn River Back Creek | 410-269-5219 | 9-5 daily | 8' | No | NA | 16 Chesapeake Landing, Annapolis, MD 21403 |

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|--------------------------------|---------------------------|--------------|-----------------|-----|----|----|---|
| Bert Jabin's Yacht Yard | Severn River Back Creek | 410-268-9667 | 8-4:30 daily | 8' | No | NA | 7310 Edgewood Rd, Annapolis, MD 21403 |
| Chesapeake Harbour Marina | Chesapeake Bay | 410-268-1969 | 9-5 daily | 8' | No | NA | 2030 Chesapeake Harbour Dr E, Annapolis, MD 21403 |
| City of Annapolis Pumpout Boat | Severn River Spa Creek | 410-320-6852 | Mon- Sat 8-4:30 | na | na | NA | na |
| Eastport Yacht Center | Severn River Back Creek | 410-280-9988 | 8-4 daily | 8' | No | NA | 726 2nd St, Annapolis, MD 21403 |
| Horn Point Harbour Marina | Severn River Back Creek | 410-263-0550 | 9-5 daily | 8' | No | NA | 105 Eastern Ave, Annapolis, MD 21403 |
| JPort Marina | Severn River Back Creek | 410-280-8692 | 9-5 daily | 9' | No | NA | 7074 Bembe Beach Rd, Annapolis, MD 21403 |
| Little John Marina | Severn River Brewer Creek | 410-841-6491 | 9-5 daily | 15' | No | NA | 134 Sherwood Forest Road, Sherwood Forest, MD 21405 |
| Mears Marina | Severn River Back Creek | 410-268-8282 | 24-7 | 10' | No | NA | 519 Chester Ave, Annapolis, |

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| | | | | | | | MD 21403 |
| Pines on the Severn | Severn River/Chase Creek | 410-370-2948 | 24-7 | 10' | No | NA | 21012, Arnold, MD 21012 |
| Port Annapolis Marina | Severn River Back Creek | 410-269-1990 | 8-4:30 daily | 10' | Yes | NA | 7074 Bembe Beach Rd, Annapolis, MD 21403 |
| Smith's Marina | Severn River Little Round Bay | 410-923-3444 | 8 - 8 daily | 7' | No | Yes | 529 Ridgley Rd, Crownsville, MD 21032 |
| The President Point | Severn River Spa Creek | 410-991-9381 | 7-7 daily | 5' | No | NA | |
| Watergate Pointe Marina | Severn River/Back Creek | 443-926-1303 | 24-7 | 7' | No | NA | 655 Americana Dr, Annapolis, MD 21403 |
| Yacht Haven of Annapolis | Severn River Spa Creek | 410-267-7654 | Mon-Fri 7:30-4:30 | 11' | No | NA | 326 First St, Annapolis, MD 21403 |
|  AREA : SOUTH RIVER (13) | | | | | | | |
| Anchor Yacht Basin | South River Selby Bay | 410-798-1431 | 8-5 daily | 5' | No | NA | 1048 Turkey Point Rd, Edgewater, MD 21037 |
| Arundel on the Bay | South River/Fishing Creek | 443-253-0596 | dawn to dusk | 4-6' | Yes | NA | PO Box 4665, Annapolis |

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| Fishing Creek | South River Duvall Creek | | 24-7 | 7' | No | NA | 122 Cherry Lane, Annapolis 21403 |
| Holiday Point Marina | South River Selby Bay | 410-956-2208 | Mon-Fri 7:30-4; Sat by appointment | 6' | Yes | NA | 3774 Beach Dr Blvd # C, Edgewater , MD 21037 |
| Liberty Marina | South River | 410-266-5633 | 8-4:30 daily | 15' | Yes | Yes | 64 Old South River Rd, Edgewater , MD 21037 |
| Mayo Ridge Marina | South River Ramsey Lake | 410-798-1952 | 9-7 daily | 5' | Yes | NA | 1293 Mayo Ridge Rd, Edgewater , MD 21037 |
| Norris Marina | South River Ramsey Lake | 410-798-0275 | 8-4 daily | 8' | No | Yes | 1111 Turkey Point Rd, Edgewater , MD 21037 |
| Oak Grove Marine Center | South River | 410-266-6696 | Mon-Fri 10-6; Sat-Sun 8-7 | 9' | No | NA | 2820 Solomons Island Rd, Edgewater , MD 21037 |
| Oyster Harbor | South River/ Oyster Creek | 410-280-8999 | 24-7 | 6' | No | NA | PO Box 3174, Annapolis |
| Pier 7 Marina | South River | 410-956-2288 | 9-5 daily | 12' | No | Yes | 48 S River Road |

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| | | | | | | | South, Edgewater , MD 21037 |
| Pocahontas Marina | South River/ Pocahonta s Creek | 410-533- 8752 | 24-7 | 10' | Yes | NA | 3365 Pocahonta s Drive Edgewater , MD 21037 |
| Selby Bay Marina | South River Selby Bay | 410-798- 0232 | 9-5 daily | 8' | Yes | NA | 931 Selby Blvd, Edgewater , MD 21037 |
| Turkey Point Marina | South River Ramsey Lake | 410-798- 1369 | Tues-Sat 9-5 | 4' | No | No | 1107 Turkey Point Rd, Edgewater , MD 21037 |
| <div> <div></div> <div>AREA :</div> <div>RHODE RIVER (5)</div> </div> | | | | | | | |
| Blue Water Marina | Rhode River, Bear Neck Creek | 410-798- 6968 | 10-5 daily | 10' | No | NA | 1024 Carrs Wharf Rd, Edgewater , MD 21037 |
| Cadle Creek Marina | Rhode River Cadle Creek | 410-798- 1915 | 9-5 daily | 6' | No | NA | 4159 Cadle Creek Rd, Edgewater , MD 21037 |
| Casa Rio Marina | Rhode River Cadle Creek | 410-798- 4731 | Mon-Fri 8 - 4 | 5' | Yes | NA | 4079 Cadle Creek Rd, Mayo, MD |

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| | | | | | | | 21106 |
| Rhode River Marina | Rhode River Back Neck Creek | 410-798-1658 | 8-5 daily | 9' | No | NA | 3932 Germantown Rd, Edgewater, MD 21037 |
| West/Rhode Riverkeeper Pumpout Boat | Rhode River | 443-221-5104 or VHF channel 71 | Fri- Mon 8-6 | | No | NA | 4800 Atwell Road, Edgewater, MD 21037 |
| <div> <div></div> <div>AREA :</div> <div>WEST RIVER (7)</div> </div> | | | | | | | |
| Backyard Boats | West River/Parri sh Creek | 301-261-5115 | 8-4 daily | 10' | Yes | NA | 4819 Woods Wharf Rd Shady Side, MD 20764 |
| Chesapeake Yacht Club | West River | 410-867-1500 | Wed-Mon 9-4 | 8' | No | NA | 4943 Hine Dr, Shady Side, MD 20764 |
| Hartge Yacht Harbor | West River | 443-607-6306 | Mon-Fri 8-5; Sat-Sun 9-5 | 10' | No | NA | 4883 Church Ln, Galesville, MD 20765 |
| Shady Oaks Marina | West River | 410-267-1808 | 8-8 daily | 5' | No | NA | 846 Shady Oaks Rd, West River, MD 20778 |
| West/Rhode River Keeper Pump out | West River | 443-221-5104 or VHF channel 71 | Fri-Mon 8-6 | | No | NA | 4800 Atwell Road, Edgewater, MD 21037 |
| West River Fuel Dock | West River | 410-867-1444 | M-Th 9-5 S/S 8-6 Fri 9-6 | 8' | No | NA | 4801 Riverside Dr. Galesville, MD 20765 |
| West River Yacht Harbor Condo | West River | 301-672-3473 | 8-6 daily | 7' | Yes | NA | 4801 Riverside Dr, Galesville, MD 20765 |

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| <div> <div>AREA :</div> <div>WHITEHALL BAY (1)</div> </div> | | | | | | | |
| Hinkley Yacht Club | Whitehall Creek | 443-951-4380 | M-F 8-9 Weekends by appointment | 12' | Yes | NA | 1656 Homewood Landing Road Whitehall, Annapolis, MD 21409 |

As part of the determination, EPA considered the costs associated with the adequacy and availability of pumpout facilities and determined that costs are minimal. As shown in the table below, pumpout facilities located within the proposed no-discharge zone charge fees that range from \$3 to \$50, with 52 of 61 available facilities charging \$5 or less, including 15 facilities that are free to use. According to Maryland's application, the majority of commercial vessels operating in the proposed no-discharge zone are already equipped with holding tank capacity and therefore are not expected to experience incremental cost increases as a result of the designation.

| Fee | Number of Pumpout Facilities | Proportion of Pumpout Facilities |
|--------------|------------------------------|----------------------------------|
| Free | 15 | 24% |
| \$3 | 1 | 1.5% |
| \$5 | 37 | 62% |
| \$10 | 5 | 8% |
| \$15 | 2 | 3% |
| \$50 | 1 | 1.5% |
| Total | 61 | 100% |

In order to solicit input on Maryland's application, EPA published a tentative affirmative determination in the Federal Register on September 23, 2020, thereby opening a 30-day public comment period (85 FR 59788). EPA received comments from five individuals regarding establishment of a no-discharge zone in Anne Arundel County and its tributaries. Of those, one supported and three opposed the effort. The other commenter neither supported nor opposed the

no-discharge zone, and instead inquired whether the commenter could receive a temporary exemption from enforcement of this no-discharge zone. Since EPA does not enforce this requirement once approved, that comment is outside the scope of EPA's authority to respond. Comments critical of establishing a no-discharge zone focused on three primary issues.

Issue 1: Nearby municipalities lack the proper waste treatment system that often overflow and result in spilling sewage to nearby waters.

Response 1: In Maryland's application, the state identifies how collected waste is handled by each individual pumpout facility. Some pumpout facilities temporarily store sewage onsite in a holding tank for later pumpout by a septic hauler that ultimately transports the sewage to a wastewater treatment plant licensed to operate in the state of Maryland. The remaining facilities are directly served by the public sewer, where sewage is directly deposited into the public sewer systems. Maryland confirms that these systems comply all applicable regulations. Treatment facilities are regulated by Maryland through NPDES permits under CWA section 402 and addressed in the Code of Maryland Regulations. Any specific overflows or spills from such facilities may further be addressed further through enforcement and/or compliance efforts. EPA reviewed recent data pertaining to overflows and found no significant violations of such permit requirements. Additionally, there are no Combined Sewer Systems in the proposed waters. EPA does not believe the closest CSO communities have any significant impact on these waters; furthermore, those programs are being adequately addressed through ongoing separation projects and/or in accordance with the schedule for approved long term control plans. .

Issue 2: The number of available pumpouts is sufficient for the resident vessel population but not for the transient vessel population in Whitehall Bay.

Response 2: In addition to the stationary pumpout facility open for public use in Whitehall Bay, nearby facilities are available to the southwest in Severn River (16 facilities) and to the northeast in Sandy Point/Mezick's Pond (one facility). As such, transient vessel operators have an option available to them while operating within Whitehall Bay, as well as before or after

transiting through the area.

Issue 3: Most pumpout facilities are not open after dark and very few are open during winter.

Response 3: The commenter is correct that few pumpout facilities offer around-the-clock service.

However, numerous facilities across the proposed no-discharge zone are available to service vessels into the late afternoon and evening. It is reasonable to expect that vessel operators can identify suitable times and locations to pumpout during facility operating hours. During the off-season (winter) months, vessels can be pumped out at the six different pumpout facilities across the proposed no-discharge zone that continue to operate. The Annapolis City pumpout boat also remains in service during this time. While most pumpout facilities are closed, Maryland estimates that only a small percentage of vessels operate during the off-season, and typically only do so for short day trips. As such, EPA has determined that, because the reduction in pumpout service capacity coincides with a reduction in demand for pumpout services, the available facilities during the off-season months remain adequate and reasonably available to the small number of vessels requiring pumpouts.

Based on the information provided by the State of Maryland and after consideration of the comments received, as well as information otherwise available to EPA, EPA hereby issues a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the thirteen identified waterbodies located in the City of Annapolis and Anne Arundel County and its tributaries such that the State of Maryland may establish a vessel sewage no-discharge zone.

Through this notification, EPA also amends one of the geographic coordinates from an existing no-discharge zone for Perrin River. EPA's final affirmative determination for Sarah Creek and Perrin River, Virginia, published in the Federal Register on September 23, 2020, incorrectly identified one of the coordinates delineating the no-discharge zone boundary at the mouth of the Perrin River as 37°15' 47.18" N, 76°25' 20.73" W (85 FR 59796). This notification hereby corrects this coordinate to 37°15' 43.52" N, 76°25'25.71" W (NAD 83).

Diana Esher,

Acting Regional Administrator,

EPA Region III.

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